

REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Tuesday, January 11, 2000, at Suite 1614 of the Parkway Towers building, 404 James Robertson Parkway, Nashville, Tennessee.

Attending the meeting were board members Karen Dunavant, George Harding, Greg Duckett; Alan Hubbard and Michael McCroskey participated in the meeting by telephone conference call.

The minutes of the December 14, 1999 meeting were approved unanimously on motion by Harding, seconded by Duckett.

Show cause hearing

99-68 - Yarboro Sallee, for failure to file a 1999 supplemental annual campaign financial disclosure report. Ms. Sallee was a candidate for district attorney general in the Anderson County area in the 1998 elections. Class two (2), maximum civil penalty \$10,000.

Ms. Sallee personally appeared before the board. She informed the members that she had sent the Registry a letter prior to the filing of her 1998 post-general election campaign financial disclosure report, informing the board that she and her treasurer had had some issues regarding irregularities in her campaign account. (Director Williams confirmed that such a letter had been received from Ms. Sallee.) At that time, her treasurer sent in a disclosure report without Ms. Sallee's signature since they were not communicating. Ms. Sallee also filed a 1998 post-general report with only her signature. Director Williams explained to the members that both post-general reports filed on behalf of Ms. Sallee had the same summary information and showed the same \$250 balance on hand of contributions.

Upon receiving the Registry's notice concerning her need to file a 1999 supplemental annual campaign disclosure report, Ms. Sallee explained that she deposited the notice and forms received from the Registry into her treasurer's mailbox, requesting that he complete the report. (She informed the board that she does not have her name on her campaign bank account and is unable to even obtain the proper bank records to complete a report.) She told the members that she assumed that her treasurer had filed the report on her behalf.

Ms. Sallee stated to the members of the Registry that upon receiving the Registry's show cause hearing notice, that she sent her treasurer a letter by overnight mail on January 3, advising him that she needed the necessary information from her campaign account to file her report, and that she must have that information no later than January 6, 2000. She explained that her treasurer did not send her any information with which to complete her report. Ms. Sallee informed the members that she had hired an attorney to take the proper legal action to obtain a court order to retrieve her campaign finance

records from her treasurer, so that she could file her 1999 disclosure report with the Registry.

A motion was made by Harding, seconded by McCroskey, to continue this matter for one month to allow Ms. Sallee additional time to obtain the necessary information from her treasurer to file her 1999 report.

Duckett then made a motion, seconded by McCroskey, to amend the original motion to request that Ms. Sallee file a 1999 campaign disclosure report with the Registry, to the best of her knowledge, prior to any information that she might obtain from her treasurer, and to continue this matter until the board's February meeting. The board voted to pass the amendment, and then voted unanimously to pass the motion as amended.

Approval of civil penalty orders

99-62 - Concerned Executives for Healthcare PAC, for failure to timely file a 1999 3rd quarter campaign financial disclosure report. Class one (1), maximum civil \$425.

A statement was submitted by Jeffrey McCune, an employee of Thompson Dunavant PLC, who performs the administrative duties of the PAC. Mr. McCune explained that the 3rd quarter report for Concerned Executives for Healthcare PAC from the PAC was completed and mailed on October 12, 1999. He stated that his organization had no idea as to why the report did not reach the Registry office for more than one month after being mailed. Mr. McCune requested that the Registry waive any civil penalties in this matter and stated that any future reports filed on behalf of the PAC would be sent to the Registry by overnight mail to avoid future mailing problems.

Registry staff confirmed that the disclosure report filed by Concerned Executives for Healthcare PAC did show a completion date of October 12 but was not received in the Registry office until November 17.

On motion by McCroskey, seconded by Hubbard, the board voted unanimously to take no action in this matter.

99-61 - Beale Street Merchants Association PAC, for failure to timely file a 1999 3rd quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$225.

A statement was filed on behalf of the PAC by Rickey Peete, Executive Director of the Beale Street Merchants Association. He stated that the PAC reporting forms and filing notices had been received at the Association's address and had not been provided to the treasurer of the PAC in time to file the report by the filing deadline. Mr. Peete further explained that this problem has now been corrected and that the PAC's mail is now being sent directly to the treasurer.

Staff confirmed for the members that this committee has been penalized on past occasions by the Registry for the late filing of reports.

A motion was made by Harding to assess a \$225 civil penalty; that motion died for lack of a second. On motion by McCroskey, seconded by Harding, the board voted unanimously to assess a \$100 penalty.

99-63 - Home Builders Association of Chattanooga, for failure to timely file a 1999 3rd quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$225.

Teresa Groves, an employee of the Home Builders Association, filed a statement with the Registry, explaining that the PAC did not receive reporting forms and the filing notification from the Registry until receipt of the Registry's late filing notice on October 22.

A motion was made by Hubbard, seconded by McCroskey to assess a civil penalty of \$50. Harding then made a motion to amend the amount of the penalty to \$100, seconded by Duckett. The amendment was passed by the board, and the motion as amended was passed unanimously, assessing the committee a \$100 civil penalty.

99-64 - Tennesseans for Hemp and Cannabis, for failure to timely file a 1999 3rd quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$700.

The Registry has had no response to the show cause hearing notice issued by the board to this PAC at the December 14 meeting, other than a phone call to Director Williams from the treasurer of this committee inquiring as to the procedures of responding to the board's notice.

A motion was made by McCroskey to assess a \$700 penalty; that motion was withdrawn after discussion by the members. McCroskey then made a motion, seconded by Duckett, to assess Tennesseans for Hemp and Cannabis a \$250 penalty, which passed on a 4 - 1 vote, with Hubbard voting "no".

99-65 – Scott McCluen, for failure to timely file a 1999 annual supplemental campaign financial disclosure report. Mr. McCluen was a candidate for district attorney general in the Roane County area during the 1998 elections. Class one (1), maximum civil penalty \$100.

Mr. McCluen did not request a personal appearance before the board, nor did he submit a sworn statement for consideration of his case in response to the Registry's show cause hearing notice. He did send a letter at the time of filing his report, stating that he had changed addresses and had failed to notify the Registry of this change.

On motion by Harding, seconded by Duckett, the board voted unanimously to assess a \$100 civil penalty.

99-57 – Doug Morris, for his failure to timely file his 1999 annual supplemental campaign financial disclosure report. Mr. Morris was a candidate for state representative in the Memphis area in the 1996 August Primary Election. Class two (2), maximum civil penalty \$10,000.

This matter was continued from the board's December meeting. Mr. Morris had filed his supplemental report with the Registry at the time of the December 14 meeting, as well as a letter providing information that his address had changed from the last address provided to the Registry. Upon filing his report, Mr. Morris disclosed that his father, who owns Morris Advertising Agency, had simply allowed Mr. Morris to write off an obligation of more than \$5,000 owed to Morris Advertising Agency and was now to

be considered a contribution from his father. However, the amount of the forgiven contribution exceeded the campaign contribution limit of \$1,000 that Mr. Morris' father could contribute to his son's campaign for the primary election.

Director Williams was directed by the board to correspond with Mr. Morris concerning the excess campaign contribution to attempt to correct this situation, prior to the board taking action on the late filed report. At the January meeting, Williams reported to the members that she had sent a letter to Mr. Morris following the December meeting, but that no response from Mr. Morris had been received.

A motion was made by Harding, seconded by Duckett, to assess a \$250 civil penalty. McCroskey then made a motion to amend the original motion to assess a \$1,000 penalty. McCroskey's motion died for a lack of a second.

Voting on the original motion, the board voted 4 – 1 to assess Mr. Morris a \$250 civil penalty for the late filing of his report, with McCroskey voting "no".

The board then voted on motion by Harding, seconded by Duckett, to issue a show cause hearing notice to Mr. Morris for the February meeting concerning the excess campaign contribution now disclosed as having been made to his campaign by his father.

99-66 – Gary Creasy, for his failure to file a 1999 supplemental annual campaign financial disclosure report with the Decatur Co. Election Commission. Mr. Creasy had been a candidate for county commissioner in the 1998 Decatur County General Election. Class two (2), maximum civil penalty \$10,000.

This case was forwarded to the Registry by the Decatur County Election Commission when Mr. Creasy's failure to file his report became a class two (2) offense. Mr. Creasy did not respond to the board's show cause hearing notice. Director Williams informed the board that the Registry has penalized Mr. Creasy on four other occasions for the failure to file disclosure reports.

A motion was made by Harding, seconded by Duckett, to assess a \$1000 civil penalty against Mr. Creasy. Duckett then amended the original motion, seconded by Harding, to assess a \$5000 penalty. The amendment was passed by the members, and the board voted unanimously to pass the amended motion, assessing Mr. Creasy a \$5,000 civil penalty.

Cases Considered for Issuance of Show Cause Notices:

Charles Hawk, for failure to file his 1999 supplemental annual campaign financial disclosure statement. Mr. Hawk was a candidate for district attorney general in the Roane County area in the 1998 elections. Class two (2), maximum civil penalty \$10,000.

On motion by Hubbard, seconded by Duckett, the board voted unanimously to issue a show cause hearing notice in this matter.

Consideration of the Jim Holcomb matter

Further consideration of this matter had been delayed at the December 14 meeting until the January, 2000 meeting, in order to allow all members of the Registry to be present.

Director Williams again explained to the board that Mr. Holcomb had filed a lobbyist registration for King Pharmaceutical Co. immediately following the November Registry meeting. The issue before the board, in light of the filing of this registration, was whether to continue the investigation of Mr. Holcomb's failure to register as a lobbyist earlier in 1999, as the board had voted to do at its November meeting, or to consider this matter closed.

After discussion by the members, the board voted on motion by Harding, seconded by Duckett, to take no further action against Mr. Holcomb in this matter because of his filing a lobbyist registration for King Pharmaceutical for both the 1999 and 2000 registration periods and to consider this matter closed. The board voted "yes" on the motion with a 4 to 1 vote, with Hubbard "abstaining" from the vote.

Budget Report:

Assistant Director Rawlins presented the board a budget report for fiscal year 1999-2000 through November 30, 1999.

On motion by Harding, seconded by Hubbard, the board voted unanimously to approve the budget as presented by Rawlins.

The staff also reported that the new computers that the board had authorized staff to purchase have now been received and installed.

Executive Director's Report

Director Williams provided the members copies of the suggested legislative changes in the disclosure laws that the Registry had listed in its 1998 annual report to the legislature and the Governor. (A copy of those suggestions are attached as part of the minutes.) She presented this to the board for the purpose of discussing the suggested legislative changes that the Registry may want to make in its 1999 annual report.

Williams reminded the members that in the past the Registry in advance of the annual report (which is not presented to the General Assembly until February so that the statistics in the report are complete) has sent letters to the Speakers of both Houses, under the signature of the chairperson, containing the Registry's suggestions for changes in the disclosure laws.

The members approved the inclusion of the suggested legislative changes from last year's annual report in the 1999 report, but asked that suggestion numbers 4 and 5 on the list provided by Williams be renumbered as suggestions 1 and 2. Additionally, the board, at the suggestion of Duckett, requested that the recommendation that the Registry be given subpoena authority (suggestion number 2 on the list to be renumbered as 3) include a requirement that two-thirds of the Registry as constituted on the date that a motion to utilize subpoena authority is made must vote in favor of the issuance of the subpoena for such a subpoena to be issued.

McCroskey suggested that the board consider recommending that candidates' treasurers be held accountable for negligence in filing candidates reports. This suggestion was made in light of the circumstances presented by Ms. Sallee as to the unwillingness of her treasurer to assist in the filing of her campaign disclosure report. Harding suggested that a recommendation be made to the General Assembly that a treasurer be held liable for civil penalties assessed against a candidate, similar to the provision provided for under the law relating to PAC treasurers.

The board directed Williams to draft letters under the signature of the Chairperson to be sent to Speaker Naifeh and Speaker Wilder containing the board's suggestions for legislative changes

Other Business

The board then considered the matter of the election of officers to serve on the Registry for 2000.

Duckett made a motion that Dunavant be nominated as Chairperson for 2000, seconded by Hubbard. Harding made a motion that Dunavant be elected by acclamation.

Duckett then made an additional motion that Harding be nominated as Secretary of the Registry for this year, seconded by Dunavant. McCroskey made a motion that the nominations be closed.

Hubbard made a motion that both the nominations for Chairperson and Secretary be closed and that the nominees be elected by acclamation, seconded by McCroskey. The Registry voted unanimously that Dunavant be elected Chairperson and that Harding be elected Secretary of the board for 2000.

The January meeting was adjourned until the next meeting date, which was scheduled for February 8, 2000, at 10:30 a.m., CST.